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SUBJECT: Talking Point for Meeting with Judge Webster, 2 April 1982

ISSUE:

Judge Clark has requested that the TOR and outline for the NSSD 2/82 study be revised to more fully address the organizational and policy topics included in the Directive. The revised Terms of Reference (attached in a more amplified form, including definitions) which I provided you on 23 March completely yet minimally addresses all areas included in NSSD 2/82 but still may not be acceptable to the Community without further clarification from Judge Clark. The clarification would be for the purpose of foreclosing from consideration the most sensitive issues relating to Counterintelligence Community organization.

BACKGROUND:

The Counterintelligence Community concern with NSSD 2/82 appears to stem from the fear that a review of Community organization may be used as a basis for establishment of centralized, dictatorial control over U.S. counterintelligence in place of the present collegial structure. Such an organization is undesirable because it would concentrate intelligence, law enforcement and investigative powers. Even the fact of formal consideration of the idea could bring accusations of creating a "Gestapo." The structure would also be pragmatically difficult to achieve. The Community's fears have been fueled by persistent questions from Congress relating to "who's in charge" of counterintelligence and by informal broaching of the issue by persons outside the Community. As a result the Community is extremely sensitive, perhaps hypersensitive, to the subject.

RECOMMENDATION:

In order to get the study in motion, it is necessary to remove any taint of a restructuring of the present counterintelligence responsibilities of Community agencies. I believe this can be done by you and Judge Webster discussing the issue with Judge Clark and requesting clarification of NSSD 2/82. Such clarification would state that the intent of NSSD 2/82 is not to change counterintelligence responsibilities already set forth by the President in E.O. 12333; rather, organizational issues should be confined to "fine tuning" and to cooperative coordination of programs.

Your meeting with Judge Webster to secure his agreement on the approach to be followed should find him already knowledgeable of the outline and Judge Clark's memo, both of which I have provided to Ed O'Malley. (Mr. O'Malley has been asked by Judge Webster to accompany him to the breakfast.)

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~~SECRET~~OTHER CONSIDERATIONS:

Judge Clark's memo of 26 March 1982 forwarding the new national threat and countermeasures assessment requests that the NSSD 2/82 review include consideration of the assessment and its recommendations. The revised outline is sufficiently broad to accommodate them and permits not only resource-dependent capabilities recommendations, but also important policy and procedural recommendations. Policy has as much of a role as resources in achieving an effective countermeasures program.

In applying the revised TOR and outline, you may want to consider using more than one IG, i.e., an IG/CI for those parts of the outline and TOR encompassed by traditional counterintelligence concerns and one or more ad hoc IGs for the other countermeasure concerns. The SIG-I can establish whatever IGs it deems necessary to accomplish the task. The chairman of an ad hoc IG could be from DoD. The use of such an IG could partially meet the concerns of those who wish to limit an IG/CI and their participation/responsibility to traditional counterintelligence.

The NSSD 2/82 Study Director would support any and all IGs and draw upon the Community Counterintelligence Staff and individual agencies for appropriate assistance. (FYI, present plans are that a retired FBI Special Agent, Richard Kinsey, will be employed as an augmentation to the Community Counterintelligence Staff to serve as Study Director.)

In view of the importance of DoD in a total countermeasure approach, particularly with respect to the SIGINT and IMINT threats, as well as protective security, a pre-SIG-I meeting by you with appropriate DoD representatives, i.e., Mr. Carlucci and General Stilwell, appears desirable. We will be dependent on their cooperation and full support, and it cannot be taken for granted.

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